



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KERUGOYA**

**CRIMINAL APPEAL NO. 109 OF 2013**

TIMOTHY MAINA NDUNGU ..... APPELLANT

VERSUS

REPUBLIC .....RESPONDENT

**(APPEAL ARISING FROM THE JUDGMENT OF THE PRINCIPAL MAGISTRATE'S COURT AT BARICHO BY S. JALANG'O – CRIMINAL CASE NO. 449 OF 2012 ON 24<sup>TH</sup> MAY 2013)**

**ORDER**

The appellant was convicted for the offence of forgery contrary to Section 349 of the Penal Code and was convicted and sentenced to pay a fine of Ksh. 150,000/= or serve two (2) years imprisonment on 24<sup>th</sup> May 2013. The record shows that he filed this appeal against conviction and sentence on 28<sup>th</sup> May 2013 but on 4<sup>th</sup> June 2013, he paid Ksh. 147,920 as fine vide Court fine receipts No. 2592663 and was released from prison.

When this appeal came up for hearing before me today, he was absent. It is not clear if he was aware that the appeal was coming up today. The record does not indicate that he was served. In the circumstance, this Court is not in a position to know whether the appellant wishes to proceed with the appeal or not.

I therefore direct that the appellant be served by the Attorney General's office to appear on 12<sup>th</sup> November 2013 when this appeal shall be mentioned before Lady Justice Githua for further orders.

**B.N. OLAO**

**JUDGE**

**15<sup>TH</sup> OCTOBER, 2013**

This order has been made in open Court this 15<sup>th</sup> day of October, 2013.

Ms Kambanga State Counsel present.

**B.N. OLAO**

**JUDGE**

**15<sup>TH</sup> OCTOBER, 2013**